

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

| | | |
|-----------------------|---|--------------------|
| IN RE: |) | |
| |) | |
| XXXXXX XXXX XXXXXXXX, |) | |
| SSN: XXXX |) | CASE NO. XX-XXXXXX |
| |) | |
| Debtor. |) | Chapter __ |
| |) | |

MOTION TO AVOID JUDICIAL LIEN OF _____

The Debtor moves for an order pursuant to 11 U.S.C. § 522(f) and Federal Rules of Bankruptcy Procedure 4003(d) and 9014 to avoid the judicial lien held by _____ (“Respondent”) and in support of this motion states:

1. The Debtor filed a voluntary petition under Chapter __ of the Bankruptcy Code on _____.

2. Respondent holds a judicial lien in the following property: _____ (“the Property”). The Respondent’s judicial lien is based upon a judgment or abstract of judgment that was recorded in the real property records of _____ County on _____ in Judgment Book _____, Page _____. A copy of such judgment or abstract of judgment is attached hereto as Exhibit A.

3. The value of the property as of the petition date was \$_____, which value is based on (describe basis for valuation, such as an appraisal, and state the date of any such valuation)_____.

4. The Debtor has claimed an exemption in the Property, or is in conjunction herewith submitting an amended exemption list on Schedule C pursuant to Federal Rule of Bankruptcy Procedure 1009(a) that claims an exemption in the abovementioned property. In the absence of any liens on the Property, the Debtor states that the Debtor would be entitled to an exemption in the amount of \$_____ pursuant to _____ (e.g., W. Va. Code § 38-10-4(a)), as of the petition date.

5. As of the petition date, the Property was subject to the following liens: (If there is more than one judicial lien, state the relative priority between the judicial liens. *Emphasize the judicial lien to be avoided*)

| Creditor | Type of lien (e.g., deed of trust, mortgage, statutory, judicial) | Balance owed as of the petition date |
|----------|---|--------------------------------------|
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| | | |

6. The Debtor states that the Respondent's lien impairs the Debtor's exemption following the formula set forth in 11 U.S.C. § 522(f)(2):

- A. Enter the total of all liens listed in paragraph 5 \$_____
- B. Enter the amount of the exemption that could be claimed in the Property in the absence of any liens as stated in paragraph 4 \$_____
- C. Add paragraphs A and B and enter the total \$_____
- D. Enter the value of the Property as stated in paragraph 3 \$_____
- E. Subtract paragraph D from paragraph C and enter the total. (If the result is 0 or less, then the judicial lien cannot be avoided) \$_____

7. Because the total of all liens on the Property and the value of the exemption, as stated in paragraph C, is \$_____, which exceeds the value of Debtor's interest in the Property by \$_____, as stated in paragraph E, and because that sum equals or exceeds the amount of the judicial lien of \$_____ sought to be avoided, the Respondent's judicial lien may be completely avoided pursuant to 11 U.S.C. § 522(f)(1).

OR

7. Because the total of all liens on the Property and the value of the exemption, as stated in paragraph C, is \$_____, which exceeds the value of Debtor's interest in the Property by \$_____, as stated in paragraph E, which is less than the amount of the Respondent's judicial

lien of \$_____, such judicial lien may be avoided pursuant to 11 U.S.C. § 522(f)(1) to the extent of only \$_____, and the rest of such judicial lien remains in effect.

WHEREFORE, the Debtor respectfully requests the Court for an order that:

A. Avoids the judicial lien held by _____ to the extent sought in this motion,
and

B. Grants such other and further relief as is fair and equitable.

This the ____ day of _____, _____.

Attorney for Debtor

(Name)

(Address)

(Telephone Number)